

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2845

AN ACT

PROVIDING FOR THE DELAYED REPEAL OF TITLE 12, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES; AMENDING SECTIONS 10-1806, 12-2101.01 AND 41-2615, ARIZONA REVISED STATUTES; AMENDING TITLE 12, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 21; RELATING TO ARBITRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 10-1806, Arizona Revised Statutes, is amended to
3 read:

4 10-1806. Settlement of disputes; arbitration

5 The articles of incorporation may provide for arbitration of any
6 deadlock or dispute involving the internal affairs of the corporation. To
7 the extent the articles of incorporation do not provide to the contrary, such
8 arbitration shall be governed by ~~the provisions of~~ title 12, chapter ~~9,~~
9 ~~article 1~~ 21. Unless otherwise provided in the articles of incorporation, if
10 the arbitrators determine that such deadlock or dispute either impairs or
11 threatens to impair the value of the assets or continued conduct of the
12 business of the corporation, ~~then~~ the arbitrators may appoint a conservator
13 or interim manager to preserve the business and assets of the corporation or
14 to continue the operation of the business of the corporation, or both, during
15 the pendency of such arbitration proceedings. If such arbitrators appoint a
16 conservator or interim manager, the arbitrators may suspend, revoke or
17 nullify the authority of any existing manager or managers. The articles of
18 incorporation may also provide that the arbitrators may suspend, revoke or
19 nullify the employment or any employment contract of any existing manager or
20 managers without payment of compensation and without liability for damages or
21 breach of contract. Unless provided otherwise in the articles of
22 incorporation, the arbitrators may define the authority and set the
23 compensation of the conservator or interim manager, and shall immediately
24 file a certificate of the appointment of such conservator or interim manager
25 with the commission. Such arbitration proceedings shall not supersede the
26 power of the superior court of Arizona to appoint an interim manager under
27 section 10-1814. A court appointed interim manager shall replace any
28 conservator or interim manager appointed under ~~the provisions of~~ this
29 section.

30 Sec. 2. Delayed repeal

31 Title 12, chapter 9, article 1, Arizona Revised Statutes, is repealed
32 from and after December 31, 2008.

33 Sec. 3. Section 12-2101.01, Arizona Revised Statutes, is amended to
34 read:

35 12-2101.01. Appeals from arbitration awards

36 A. An appeal may be taken from ANY OF THE FOLLOWING:

- 37 1. An order denying an application to compel arbitration made under
38 ~~the terms of~~ section ~~12-1502;~~ 12-3007.
- 39 2. An order granting an application to stay arbitration made under ~~the~~
40 ~~terms of subsection B of~~ section ~~12-1502;~~ 12-3007.
- 41 3. An order denying confirmation of an award. ~~+~~
- 42 4. An order modifying or correcting an award. ~~+~~
- 43 5. An order vacating an award without directing a rehearing. ~~+~~ ~~or~~
- 44 6. A judgment or decree entered pursuant to ~~the provisions of article~~
45 ~~1,~~ chapter ~~9,~~ 21 of this title.

1 B. The appeal shall be taken in the manner and to the same extent as
2 from orders or judgments in a civil action.

3 Sec. 4. Title 12, Arizona Revised Statutes, is amended by adding
4 chapter 21, to read:

5 CHAPTER 21

6 REVISED UNIFORM ARBITRATION ACT

7 ARTICLE 1. GENERAL PROVISIONS

8 12-3001. Definitions

9 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 1. "ARBITRATION ORGANIZATION" MEANS AN ASSOCIATION, AGENCY, BOARD,
11 COMMISSION OR OTHER ENTITY THAT IS NEUTRAL AND THAT INITIATES, SPONSORS OR
12 ADMINISTERS AN ARBITRATION PROCEEDING OR IS INVOLVED IN THE APPOINTMENT OF AN
13 ARBITRATOR.

14 2. "ARBITRATOR" MEANS AN INDIVIDUAL WHO IS APPOINTED TO RENDER AN
15 AWARD, ALONE OR WITH OTHERS, IN A CONTROVERSY THAT IS SUBJECT TO AN AGREEMENT
16 TO ARBITRATE.

17 3. "COURT" MEANS A COURT OF COMPETENT JURISDICTION IN THIS STATE.

18 4. "KNOWLEDGE" MEANS ACTUAL KNOWLEDGE.

19 5. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,
20 TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE,
21 GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR INSTRUMENTALITY OR PUBLIC
22 CORPORATION OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

23 6. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM
24 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND THAT IS RETRIEVABLE IN
25 PERCEIVABLE FORM.

26 12-3002. Notice

27 A. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON GIVES NOTICE
28 TO ANOTHER PERSON BY TAKING ACTION THAT IS REASONABLY NECESSARY TO INFORM THE
29 OTHER PERSON IN ORDINARY COURSE, WHETHER OR NOT THE OTHER PERSON ACQUIRES
30 KNOWLEDGE OF THE NOTICE.

31 B. A PERSON HAS NOTICE IF THE PERSON HAS KNOWLEDGE OF THE NOTICE OR
32 HAS RECEIVED NOTICE.

33 C. A PERSON RECEIVES NOTICE WHEN IT COMES TO THE PERSON'S ATTENTION OR
34 THE NOTICE IS DELIVERED AT THE PERSON'S PLACE OF RESIDENCE OR PLACE OF
35 BUSINESS OR AT ANOTHER LOCATION HELD OUT BY THE PERSON AS A PLACE OF DELIVERY
36 OF SUCH COMMUNICATIONS.

37 12-3003. Applicability

38 A. THIS CHAPTER GOVERNS AN AGREEMENT TO ARBITRATE MADE ON OR AFTER
39 JANUARY 1, 2009.

40 B. THIS CHAPTER GOVERNS AN AGREEMENT TO ARBITRATE MADE BEFORE JANUARY
41 1, 2009 IF ALL THE PARTIES TO THE AGREEMENT OR TO THE ARBITRATION PROCEEDING
42 SO AGREE IN A RECORD.

43 C. ON OR AFTER JANUARY 1, 2009, THIS CHAPTER GOVERNS AN AGREEMENT TO
44 ARBITRATE WHENEVER MADE.

1 D. THIS CHAPTER SHALL NOT APPLY TO ANY OF THE FOLLOWING:

2 1. AN ARBITRATION AGREEMENT BETWEEN AN EMPLOYER AND EMPLOYEE OR THEIR
3 RESPECTIVE REPRESENTATIVES.

4 2. A CONTRACT REGULATED UNDER TITLE 20.

5 3. A NATIONAL BANKING ASSOCIATION AND ANY AFFILIATE, SUBSIDIARY, OR
6 HOLDING COMPANY.

7 4. AN ARBITRATION CONDUCTED OR ADMINISTERED BY A SELF-REGULATORY
8 ORGANIZATION AS DEFINED IN THE SECURITIES EXCHANGE ACT OF 1934 (15 UNITED
9 STATES CODE SECTION 78c), THE COMMODITY EXCHANGE ACT (7 UNITED STATES CODE
10 CHAPTER 1) OR REGULATIONS ADOPTED UNDER THOSE ACTS.

11 12-3004. Effect of agreement to arbitrate; nonwaivable
12 provisions

13 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS B AND C OF THIS
14 SECTION, A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING
15 MAY WAIVE, OR THE PARTIES MAY VARY THE EFFECT OF, THE REQUIREMENTS OF THIS
16 CHAPTER TO THE EXTENT PERMITTED BY LAW.

17 B. BEFORE A CONTROVERSY ARISES THAT IS SUBJECT TO AN AGREEMENT TO
18 ARBITRATE, A PARTY TO THE AGREEMENT MAY NOT:

19 1. WAIVE OR AGREE TO VARY THE EFFECT OF THE REQUIREMENTS PRESCRIBED IN
20 SECTION 12-3005, SUBSECTION A, SECTION 12-3006, SUBSECTION A, SECTION
21 12-3008, SECTION 12-3017, SUBSECTION A OR B OR SECTION 12-3026.

22 2. AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER SECTION 12-3009 TO
23 NOTICE OF THE INITIATION OF AN ARBITRATION PROCEEDING.

24 3. AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER SECTION 12-3012 TO
25 DISCLOSURE OF ANY FACTS BY A NEUTRAL ARBITRATOR.

26 4. WAIVE THE RIGHT UNDER SECTION 12-3016 OF A PARTY TO AN AGREEMENT TO
27 ARBITRATE TO BE REPRESENTED BY A LAWYER AT ANY PROCEEDING OR HEARING UNDER
28 THIS CHAPTER, BUT AN EMPLOYER AND A LABOR ORGANIZATION MAY WAIVE THE RIGHT TO
29 REPRESENTATION BY A LAWYER IN A LABOR ARBITRATION.

30 C. A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION
31 PROCEEDING MAY NOT WAIVE, OR THE PARTIES MAY NOT VARY THE EFFECT OF, THE
32 REQUIREMENTS OF THIS SECTION, SECTION 12-3003, SUBSECTION A OR C, SECTION
33 12-3007, 12-3014 OR 12-3018, SECTION 12-3020, SUBSECTION D OR E, SECTION
34 12-3022, 12-3023 OR 12-3024, SECTION 12-3025, SUBSECTION A OR B OR SECTION
35 12-3028 OR 12-3029.

36 12-3005. Application for judicial relief

37 A. AN APPLICATION FOR JUDICIAL RELIEF UNDER THIS CHAPTER MUST BE MADE
38 BY MOTION TO THE COURT AND HEARD IN THE MANNER PROVIDED BY LAW OR COURT RULE
39 FOR MAKING AND HEARING MOTIONS.

40 B. UNLESS A CIVIL ACTION INVOLVING THE AGREEMENT TO ARBITRATE IS
41 PENDING, NOTICE OF AN INITIAL MOTION TO THE COURT UNDER THIS CHAPTER MUST BE
42 SERVED IN THE MANNER PROVIDED BY LAW FOR THE SERVICE OF A SUMMONS IN A CIVIL
43 ACTION. OTHERWISE, NOTICE OF THE MOTION MUST BE GIVEN IN THE MANNER PROVIDED
44 BY LAW OR COURT RULE FOR SERVING MOTIONS IN PENDING CASES.

12-3006. Validity of agreement to arbitrate

A. AN AGREEMENT CONTAINED IN A RECORD TO SUBMIT TO ARBITRATION ANY EXISTING OR SUBSEQUENT CONTROVERSY ARISING BETWEEN THE PARTIES TO THE AGREEMENT IS VALID, ENFORCEABLE AND IRREVOCABLE EXCEPT ON A GROUND THAT EXISTS AT LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT.

B. THE COURT SHALL DECIDE WHETHER AN AGREEMENT TO ARBITRATE EXISTS OR A CONTROVERSY IS SUBJECT TO AN AGREEMENT TO ARBITRATE.

C. AN ARBITRATOR SHALL DECIDE WHETHER A CONDITION PRECEDENT TO ARBITRABILITY HAS BEEN FULFILLED AND WHETHER A CONTRACT CONTAINING A VALID AGREEMENT TO ARBITRATE IS ENFORCEABLE.

D. IF A PARTY TO A JUDICIAL PROCEEDING CHALLENGES THE EXISTENCE OF, OR CLAIMS THAT A CONTROVERSY IS NOT SUBJECT TO, AN AGREEMENT TO ARBITRATE, THE ARBITRATION PROCEEDING MAY CONTINUE PENDING FINAL RESOLUTION OF THE ISSUE BY THE COURT, UNLESS THE COURT OTHERWISE ORDERS.

12-3007. Motion to compel or stay arbitration

A. ON MOTION OF A PERSON SHOWING AN AGREEMENT TO ARBITRATE AND ALLEGING ANOTHER PERSON'S REFUSAL TO ARBITRATE PURSUANT TO THE AGREEMENT:

1. IF THE REFUSING PARTY DOES NOT APPEAR OR DOES NOT OPPOSE THE MOTION, THE COURT SHALL ORDER THE PARTIES TO ARBITRATE.

2. IF THE REFUSING PARTY OPPOSES THE MOTION, THE COURT SHALL PROCEED SUMMARILY TO DECIDE THE ISSUE AND ORDER THE PARTIES TO ARBITRATE UNLESS IT FINDS THAT THERE IS NO ENFORCEABLE AGREEMENT TO ARBITRATE.

B. ON MOTION OF A PERSON ALLEGING THAT AN ARBITRATION PROCEEDING HAS BEEN INITIATED OR THREATENED BUT THAT THERE IS NO AGREEMENT TO ARBITRATE, THE COURT SHALL PROCEED SUMMARILY TO DECIDE THE ISSUE. IF THE COURT FINDS THAT THERE IS AN ENFORCEABLE AGREEMENT TO ARBITRATE, IT SHALL ORDER THE PARTIES TO ARBITRATE.

C. IF THE COURT FINDS THAT THERE IS NO ENFORCEABLE AGREEMENT, IT MAY NOT ORDER THE PARTIES TO ARBITRATE PURSUANT TO SUBSECTION A OR B OF THIS SECTION.

D. THE COURT MAY NOT REFUSE TO ORDER ARBITRATION BECAUSE THE CLAIM SUBJECT TO ARBITRATION LACKS MERIT OR GROUNDS FOR THE CLAIM HAVE NOT BEEN ESTABLISHED.

E. IF A PROCEEDING INVOLVING A CLAIM REFERABLE TO ARBITRATION UNDER AN ALLEGED AGREEMENT TO ARBITRATE IS PENDING IN COURT, A MOTION UNDER THIS SECTION MUST BE MADE IN THAT COURT. OTHERWISE, A MOTION UNDER THIS SECTION MAY BE MADE IN ANY COURT AS PROVIDED IN SECTION 12-3027.

F. IF A PARTY MAKES A MOTION TO THE COURT TO ORDER ARBITRATION, THE COURT ON JUST TERMS SHALL STAY ANY JUDICIAL PROCEEDING THAT INVOLVES A CLAIM ALLEGED TO BE SUBJECT TO THE ARBITRATION UNTIL THE COURT RENDERS A FINAL DECISION UNDER THIS SECTION.

G. IF THE COURT ORDERS ARBITRATION, THE COURT ON JUST TERMS SHALL STAY ANY JUDICIAL PROCEEDING THAT INVOLVES A CLAIM SUBJECT TO THE ARBITRATION. IF A CLAIM SUBJECT TO THE ARBITRATION IS SEVERABLE, THE COURT MAY LIMIT THE STAY TO THAT CLAIM.

12-3008. Interim remedies

A. BEFORE AN ARBITRATOR IS APPOINTED AND IS AUTHORIZED AND ABLE TO ACT, THE COURT, ON MOTION OF A PARTY TO AN ARBITRATION PROCEEDING AND FOR GOOD CAUSE SHOWN, MAY ENTER AN ORDER FOR INTERIM REMEDIES TO PROTECT THE EFFECTIVENESS OF THE ARBITRATION PROCEEDING TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

B. AFTER AN ARBITRATOR IS APPOINTED AND IS AUTHORIZED AND ABLE TO ACT:

1. THE ARBITRATOR MAY ISSUE SUCH ORDERS FOR INTERIM REMEDIES, INCLUDING INTERIM AWARDS, AS THE ARBITRATOR FINDS NECESSARY TO PROTECT THE EFFECTIVENESS OF THE ARBITRATION PROCEEDING AND TO PROMOTE THE FAIR AND EXPEDITIOUS RESOLUTION OF THE CONTROVERSY, TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

2. A PARTY TO AN ARBITRATION PROCEEDING MAY MOVE THE COURT FOR AN INTERIM REMEDY ONLY IF THE MATTER IS URGENT AND THE ARBITRATOR IS NOT ABLE TO ACT TIMELY OR THE ARBITRATOR CANNOT PROVIDE AN ADEQUATE REMEDY.

C. A PARTY DOES NOT WAIVE A RIGHT OF ARBITRATION BY MAKING A MOTION UNDER SUBSECTION A OR B.

12-3009. Initiation of arbitration; notice

A. A PERSON INITIATES AN ARBITRATION PROCEEDING BY GIVING NOTICE IN A RECORD TO THE OTHER PARTIES TO THE AGREEMENT TO ARBITRATE IN THE AGREED MANNER BETWEEN THE PARTIES OR, IN THE ABSENCE OF AN AGREEMENT, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY SERVICE AS AUTHORIZED FOR THE COMMENCEMENT OF A CIVIL ACTION. THE NOTICE MUST DESCRIBE THE NATURE OF THE CONTROVERSY AND THE REMEDY SOUGHT.

B. UNLESS A PERSON OBJECTS FOR LACK OR INSUFFICIENCY OF NOTICE UNDER SECTION 12-3015, SUBSECTION C NOT LATER THAN THE BEGINNING OF THE ARBITRATION HEARING, THE PERSON BY APPEARING AT THE HEARING WAIVES ANY OBJECTION TO LACK OR INSUFFICIENCY OF NOTICE.

12-3010. Consolidation of separate arbitration proceedings

A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION C, ON MOTION OF A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING, THE COURT MAY ORDER CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS AS TO ALL OR SOME OF THE CLAIMS IF ALL OF THE FOLLOWING APPLY:

1. THERE ARE SEPARATE AGREEMENTS TO ARBITRATE OR SEPARATE ARBITRATION PROCEEDINGS BETWEEN THE SAME PERSONS OR ONE OF THEM IS A PARTY TO A SEPARATE AGREEMENT TO ARBITRATE OR A SEPARATE ARBITRATION PROCEEDING WITH A THIRD PERSON.

2. THE CLAIMS SUBJECT TO THE AGREEMENTS TO ARBITRATE ARISE IN SUBSTANTIAL PART FROM THE SAME TRANSACTION OR SERIES OF RELATED TRANSACTIONS.

3. THE EXISTENCE OF A COMMON ISSUE OF LAW OR FACT CREATES THE POSSIBILITY OF CONFLICTING DECISIONS IN THE SEPARATE ARBITRATION PROCEEDINGS.

4. PREJUDICE RESULTING FROM A FAILURE TO CONSOLIDATE IS NOT OUTWEIGHED BY THE RISK OF UNDUE DELAY OR PREJUDICE TO THE RIGHTS OF OR HARDSHIP TO PARTIES OPPOSING CONSOLIDATION.

1 B. THE COURT MAY ORDER CONSOLIDATION OF SEPARATE ARBITRATION
2 PROCEEDINGS AS TO SOME CLAIMS AND ALLOW OTHER CLAIMS TO BE RESOLVED IN
3 SEPARATE ARBITRATION PROCEEDINGS.

4 C. THE COURT MAY NOT ORDER CONSOLIDATION OF THE CLAIMS OF A PARTY TO
5 AN AGREEMENT TO ARBITRATE IF THE AGREEMENT PROHIBITS CONSOLIDATION.

6 12-3011. Appointment of arbitrator; service as a neutral
7 arbitrator

8 A. IF THE PARTIES TO AN AGREEMENT TO ARBITRATE AGREE ON A METHOD FOR
9 APPOINTING AN ARBITRATOR, THAT METHOD MUST BE FOLLOWED UNLESS THE METHOD
10 FAILS. IF THE PARTIES HAVE NOT AGREED ON A METHOD, THE AGREED METHOD FAILS
11 OR AN ARBITRATOR APPOINTED FAILS OR IS UNABLE TO ACT AND A SUCCESSOR HAS NOT
12 BEEN APPOINTED, THE COURT, ON MOTION OF A PARTY TO THE ARBITRATION
13 PROCEEDING, SHALL APPOINT THE ARBITRATOR. AN ARBITRATOR SO APPOINTED HAS ALL
14 THE POWERS OF AN ARBITRATOR DESIGNATED IN THE AGREEMENT TO ARBITRATE OR
15 APPOINTED PURSUANT TO THE AGREED METHOD.

16 B. AN INDIVIDUAL WHO HAS A KNOWN, DIRECT AND MATERIAL INTEREST IN THE
17 OUTCOME OF THE ARBITRATION PROCEEDING OR A KNOWN, EXISTING AND SUBSTANTIAL
18 RELATIONSHIP WITH A PARTY MAY NOT SERVE AS AN ARBITRATOR REQUIRED BY AN
19 AGREEMENT TO BE NEUTRAL.

20 12-3012. Disclosure by arbitrator

21 A. BEFORE ACCEPTING APPOINTMENT, AN INDIVIDUAL WHO IS REQUESTED TO
22 SERVE AS AN ARBITRATOR, AFTER MAKING A REASONABLE INQUIRY, SHALL DISCLOSE TO
23 ALL PARTIES TO THE AGREEMENT TO ARBITRATE, TO THE ARBITRATION PROCEEDING AND
24 TO ANY OTHER ARBITRATORS ANY KNOWN FACTS THAT A REASONABLE PERSON WOULD
25 CONSIDER LIKELY TO AFFECT THE IMPARTIALITY OF THE ARBITRATOR IN THE
26 ARBITRATION PROCEEDING, INCLUDING BOTH:

27 1. A FINANCIAL OR PERSONAL INTEREST IN THE OUTCOME OF THE ARBITRATION
28 PROCEEDING.

29 2. AN EXISTING OR PAST RELATIONSHIP WITH ANY OF THE PARTIES TO THE
30 AGREEMENT TO ARBITRATE OR THE ARBITRATION PROCEEDING, THEIR COUNSEL OR
31 REPRESENTATIVES, A WITNESS OR ANOTHER ARBITRATOR.

32 B. AN ARBITRATOR HAS A CONTINUING OBLIGATION TO DISCLOSE TO ALL
33 PARTIES TO THE AGREEMENT TO ARBITRATE, TO THE ARBITRATION PROCEEDING AND TO
34 ANY OTHER ARBITRATORS ANY FACTS THAT THE ARBITRATOR LEARNS AFTER ACCEPTING
35 APPOINTMENT THAT A REASONABLE PERSON WOULD CONSIDER LIKELY TO AFFECT THE
36 IMPARTIALITY OF THE ARBITRATOR.

37 C. IF AN ARBITRATOR DISCLOSES A FACT REQUIRED BY SUBSECTION A OR B OF
38 THIS SECTION TO BE DISCLOSED AND A PARTY TIMELY OBJECTS TO THE APPOINTMENT OR
39 CONTINUED SERVICE OF THE ARBITRATOR BASED ON THE FACT DISCLOSED, THE
40 OBJECTION MAY BE A GROUND UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 2
41 FOR VACATING AN AWARD MADE BY THE ARBITRATOR.

42 D. IF THE ARBITRATOR DID NOT DISCLOSE A FACT AS REQUIRED BY SUBSECTION
43 A OR B OF THIS SECTION, ON TIMELY OBJECTION BY A PARTY, THE COURT UNDER
44 SECTION 12-3023, SUBSECTION A, PARAGRAPH 2 MAY VACATE AN AWARD MADE BY THE
45 ARBITRATOR.

1 E. AN ARBITRATOR APPOINTED AS A NEUTRAL ARBITRATOR WHO DOES NOT
2 DISCLOSE A KNOWN, DIRECT AND MATERIAL INTEREST IN THE OUTCOME OF THE
3 ARBITRATION PROCEEDING OR A KNOWN, EXISTING AND SUBSTANTIAL RELATIONSHIP WITH
4 A PARTY IS PRESUMED TO ACT WITH EVIDENT PARTIALITY UNDER SECTION 12-3023,
5 SUBSECTION A, PARAGRAPH 2.

6 F. IF THE PARTIES TO AN ARBITRATION PROCEEDING AGREE TO THE PROCEDURES
7 OF AN ARBITRATION ORGANIZATION OR ANY OTHER PROCEDURES FOR CHALLENGES TO
8 ARBITRATORS BEFORE AN AWARD IS MADE, SUBSTANTIAL COMPLIANCE WITH THOSE
9 PROCEDURES IS A CONDITION PRECEDENT TO A MOTION TO VACATE AN AWARD ON THAT
10 GROUND UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 2.

11 12-3013. Action by majority

12 IF THERE IS MORE THAN ONE ARBITRATOR, THE POWERS OF AN ARBITRATOR MUST
13 BE EXERCISED BY A MAJORITY OF THE ARBITRATORS, BUT ALL OF THEM SHALL CONDUCT
14 THE HEARING UNDER SECTION 12-3015, SUBSECTION C.

15 12-3014. Immunity of arbitrator; competency to testify;
16 attorney fees and litigation expenses

17 A. AN ARBITRATOR OR AN ARBITRATION ORGANIZATION ACTING IN THAT
18 CAPACITY IS IMMUNE FROM CIVIL LIABILITY TO THE SAME EXTENT AS A JUDGE OF A
19 COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

20 B. THE IMMUNITY AFFORDED BY THIS SECTION SUPPLEMENTS ANY IMMUNITY
21 UNDER OTHER LAW.

22 C. THE FAILURE OF AN ARBITRATOR TO MAKE A DISCLOSURE REQUIRED BY
23 SECTION 12-3012 DOES NOT CAUSE ANY LOSS OF IMMUNITY UNDER THIS SECTION.

24 D. IN A JUDICIAL, ADMINISTRATIVE OR SIMILAR PROCEEDING, AN ARBITRATOR
25 OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION IS NOT COMPETENT TO TESTIFY,
26 AND MAY NOT BE REQUIRED TO PRODUCE RECORDS AS TO ANY STATEMENT, CONDUCT,
27 DECISION OR RULING OCCURRING DURING THE ARBITRATION PROCEEDING, TO THE SAME
28 EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.
29 THIS SUBSECTION DOES NOT APPLY:

30 1. TO THE EXTENT NECESSARY TO DETERMINE THE CLAIM OF AN ARBITRATOR,
31 ARBITRATION ORGANIZATION OR REPRESENTATIVE OF THE ARBITRATION ORGANIZATION
32 AGAINST A PARTY TO THE ARBITRATION PROCEEDING.

33 2. TO A HEARING ON A MOTION TO VACATE AN AWARD UNDER SECTION 12-3023,
34 SUBSECTION A, PARAGRAPH 1 OR 2 IF THE MOVANT ESTABLISHES PRIMA FACIE THAT A
35 GROUND FOR VACATING THE AWARD EXISTS.

36 E. IF A PERSON COMMENCES A CIVIL ACTION AGAINST AN ARBITRATOR,
37 ARBITRATION ORGANIZATION OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION
38 ARISING FROM THE SERVICES OF THE ARBITRATOR, ORGANIZATION OR REPRESENTATIVE
39 OR IF A PERSON SEEKS TO COMPEL AN ARBITRATOR OR A REPRESENTATIVE OF AN
40 ARBITRATION ORGANIZATION TO TESTIFY OR PRODUCE RECORDS IN VIOLATION OF
41 SUBSECTION D OF THIS SECTION, AND THE COURT DECIDES THAT THE ARBITRATOR,
42 ARBITRATION ORGANIZATION OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION IS
43 IMMUNE FROM CIVIL LIABILITY OR THAT THE ARBITRATOR OR REPRESENTATIVE OF THE
44 ORGANIZATION IS NOT COMPETENT TO TESTIFY, THE COURT SHALL AWARD TO THE

1 ARBITRATOR, ORGANIZATION OR REPRESENTATIVE REASONABLE ATTORNEY FEES AND OTHER
2 REASONABLE EXPENSES OF LITIGATION.

3 12-3015. Arbitration process

4 A. AN ARBITRATOR MAY CONDUCT AN ARBITRATION IN SUCH MANNER AS THE
5 ARBITRATOR CONSIDERS APPROPRIATE FOR A FAIR AND EXPEDITIOUS DISPOSITION OF
6 THE PROCEEDING. THE AUTHORITY CONFERRED ON THE ARBITRATOR INCLUDES THE POWER
7 TO HOLD CONFERENCES WITH THE PARTIES TO THE ARBITRATION PROCEEDING BEFORE THE
8 HEARING AND, AMONG OTHER MATTERS, TO DETERMINE THE ADMISSIBILITY, RELEVANCE,
9 MATERIALITY AND WEIGHT OF ANY EVIDENCE.

10 B. AN ARBITRATOR MAY DECIDE A REQUEST FOR SUMMARY DISPOSITION OF A
11 CLAIM OR PARTICULAR ISSUE EITHER:

12 1. IF ALL INTERESTED PARTIES AGREE.

13 2. ON REQUEST OF ONE PARTY TO THE ARBITRATION PROCEEDING IF THAT PARTY
14 GIVES NOTICE TO ALL OTHER PARTIES TO THE PROCEEDING AND THE OTHER PARTIES
15 HAVE A REASONABLE OPPORTUNITY TO RESPOND.

16 C. IF AN ARBITRATOR ORDERS A HEARING, THE ARBITRATOR SHALL SET A TIME
17 AND PLACE AND GIVE NOTICE OF THE HEARING AT LEAST FIVE DAYS BEFORE THE
18 HEARING BEGINS. UNLESS A PARTY TO THE ARBITRATION PROCEEDING MAKES AN
19 OBJECTION TO LACK OR INSUFFICIENCY OF NOTICE NOT LATER THAN THE BEGINNING OF
20 THE HEARING, THE PARTY'S APPEARANCE AT THE HEARING WAIVES THE OBJECTION. ON
21 REQUEST OF A PARTY TO THE ARBITRATION PROCEEDING AND FOR GOOD CAUSE SHOWN, OR
22 ON THE ARBITRATOR'S OWN INITIATIVE, THE ARBITRATOR MAY ADJOURN THE HEARING
23 FROM TIME TO TIME AS NECESSARY BUT MAY NOT POSTPONE THE HEARING TO A TIME
24 LATER THAN THAT FIXED BY THE AGREEMENT TO ARBITRATE FOR MAKING THE AWARD
25 UNLESS THE PARTIES TO THE ARBITRATION PROCEEDING CONSENT TO A LATER
26 DATE. THE ARBITRATOR MAY HEAR AND DECIDE THE CONTROVERSY ON THE EVIDENCE
27 PRODUCED ALTHOUGH A PARTY WHO WAS DULY NOTIFIED OF THE ARBITRATION PROCEEDING
28 DID NOT APPEAR. THE COURT, ON REQUEST, MAY DIRECT THE ARBITRATOR TO CONDUCT
29 THE HEARING PROMPTLY AND RENDER A TIMELY DECISION.

30 D. AT A HEARING UNDER SUBSECTION C OF THIS SECTION, A PARTY TO THE
31 ARBITRATION PROCEEDING HAS A RIGHT TO BE HEARD, TO PRESENT EVIDENCE MATERIAL
32 TO THE CONTROVERSY AND TO CROSS-EXAMINE WITNESSES APPEARING AT THE HEARING.

33 E. IF AN ARBITRATOR CEASES OR IS UNABLE TO ACT DURING THE ARBITRATION
34 PROCEEDING, A REPLACEMENT ARBITRATOR MUST BE APPOINTED IN ACCORDANCE WITH
35 SECTION 12-3011 TO CONTINUE THE PROCEEDING AND TO RESOLVE THE CONTROVERSY.

36 12-3016. Representation by lawyer

37 A PARTY TO AN ARBITRATION PROCEEDING MAY BE REPRESENTED BY A LAWYER.

38 12-3017. Witnesses; subpoenas; depositions; discovery

39 A. AN ARBITRATOR MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS
40 AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE AT ANY HEARING AND MAY
41 ADMINISTER OATHS. A SUBPOENA MUST BE SERVED IN THE MANNER FOR SERVICE OF
42 SUBPOENAS IN A CIVIL ACTION AND, ON MOTION TO THE COURT BY A PARTY TO THE
43 ARBITRATION PROCEEDING OR THE ARBITRATOR, ENFORCED IN THE MANNER FOR
44 ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION.

1 B. IN ORDER TO MAKE THE PROCEEDINGS FAIR, EXPEDITIOUS AND COST
2 EFFECTIVE, ON REQUEST OF A PARTY TO OR A WITNESS IN AN ARBITRATION
3 PROCEEDING, AN ARBITRATOR MAY PERMIT A DEPOSITION OF ANY WITNESS TO BE TAKEN
4 FOR USE AS EVIDENCE AT THE HEARING, INCLUDING A WITNESS WHO CANNOT BE
5 SUBPOENAED FOR OR IS UNABLE TO ATTEND A HEARING. THE ARBITRATOR SHALL
6 DETERMINE THE CONDITIONS UNDER WHICH THE DEPOSITION IS TAKEN.

7 C. AN ARBITRATOR MAY PERMIT SUCH DISCOVERY AS THE ARBITRATOR DECIDES
8 IS APPROPRIATE IN THE CIRCUMSTANCES, TAKING INTO ACCOUNT THE NEEDS OF THE
9 PARTIES TO THE ARBITRATION PROCEEDING AND OTHER AFFECTED PERSONS AND THE
10 DESIRABILITY OF MAKING THE PROCEEDING FAIR, EXPEDITIOUS AND COST EFFECTIVE.

11 D. IF AN ARBITRATOR PERMITS DISCOVERY UNDER SUBSECTION C, THE
12 ARBITRATOR MAY ORDER A PARTY TO THE ARBITRATION PROCEEDING TO COMPLY WITH THE
13 ARBITRATOR'S DISCOVERY RELATED ORDERS, ISSUE SUBPOENAS FOR THE ATTENDANCE OF
14 A WITNESS AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE AT A DISCOVERY
15 PROCEEDING AND TAKE ACTION AGAINST A NONCOMPLYING PARTY TO THE EXTENT A COURT
16 COULD IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

17 E. AN ARBITRATOR MAY ISSUE A PROTECTIVE ORDER TO PREVENT THE
18 DISCLOSURE OF PRIVILEGED INFORMATION, CONFIDENTIAL INFORMATION, TRADE SECRETS
19 AND OTHER INFORMATION PROTECTED FROM DISCLOSURE TO THE EXTENT A COURT COULD
20 IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

21 F. ALL LAWS COMPELLING A PERSON UNDER SUBPOENA TO TESTIFY AND ALL FEES
22 FOR ATTENDING A JUDICIAL PROCEEDING, A DEPOSITION OR A DISCOVERY PROCEEDING
23 AS A WITNESS APPLY TO AN ARBITRATION PROCEEDING AS IF THE CONTROVERSY WERE
24 THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

25 G. THE COURT MAY ENFORCE A SUBPOENA OR DISCOVERY RELATED ORDER FOR THE
26 ATTENDANCE OF A WITNESS WITHIN THIS STATE AND FOR THE PRODUCTION OF RECORDS
27 AND OTHER EVIDENCE ISSUED BY AN ARBITRATOR IN CONNECTION WITH AN ARBITRATION
28 PROCEEDING IN ANOTHER STATE ON CONDITIONS DETERMINED BY THE COURT SO AS TO
29 MAKE THE ARBITRATION PROCEEDING FAIR, EXPEDITIOUS AND COST EFFECTIVE. A
30 SUBPOENA OR DISCOVERY RELATED ORDER ISSUED BY AN ARBITRATOR IN ANOTHER STATE
31 MUST BE SERVED IN THE MANNER PROVIDED BY LAW FOR SERVICE OF SUBPOENAS IN A
32 CIVIL ACTION IN THIS STATE AND, ON MOTION TO THE COURT BY A PARTY TO THE
33 ARBITRATION PROCEEDING OR THE ARBITRATOR, ENFORCED IN THE MANNER PROVIDED BY
34 LAW FOR ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION IN THIS STATE.

35 12-3018. Judicial enforcement of preaward ruling by arbitrator

36 IF AN ARBITRATOR MAKES A PREAWARD RULING IN FAVOR OF A PARTY TO THE
37 ARBITRATION PROCEEDING, THE PARTY MAY REQUEST THE ARBITRATOR TO INCORPORATE
38 THE RULING INTO AN AWARD UNDER SECTION 12-3019. A PREVAILING PARTY MAY MAKE
39 A MOTION TO THE COURT FOR AN EXPEDITED ORDER TO CONFIRM THE AWARD UNDER
40 SECTION 12-3022, IN WHICH CASE THE COURT SHALL SUMMARILY DECIDE THE MOTION.
41 THE COURT SHALL ISSUE AN ORDER TO CONFIRM THE AWARD UNLESS THE COURT VACATES,
42 MODIFIES OR CORRECTS THE AWARD UNDER SECTION 12-3023 OR 12-3024.

12-3019. Award

A. AN ARBITRATOR SHALL MAKE A RECORD OF AN AWARD. THE RECORD MUST BE SIGNED OR OTHERWISE AUTHENTICATED BY ANY ARBITRATOR WHO CONCURS WITH THE AWARD. THE ARBITRATOR OR THE ARBITRATION ORGANIZATION SHALL GIVE NOTICE OF THE AWARD, INCLUDING A COPY OF THE AWARD, TO EACH PARTY TO THE ARBITRATION PROCEEDING.

B. AN AWARD MUST BE MADE WITHIN THE TIME SPECIFIED BY THE AGREEMENT TO ARBITRATE OR, IF NOT SPECIFIED THEREIN, WITHIN THE TIME ORDERED BY THE COURT. THE COURT MAY EXTEND OR THE PARTIES TO THE ARBITRATION PROCEEDING MAY AGREE IN A RECORD TO EXTEND THE TIME. THE COURT OR THE PARTIES MAY DO SO WITHIN OR AFTER THE TIME SPECIFIED OR ORDERED. A PARTY WAIVES ANY OBJECTION THAT AN AWARD WAS NOT TIMELY MADE UNLESS THE PARTY GIVES NOTICE OF THE OBJECTION TO THE ARBITRATOR BEFORE RECEIVING NOTICE OF THE AWARD.

12-3020. Change of award by arbitrator

A. ON MOTION TO AN ARBITRATOR BY A PARTY TO AN ARBITRATION PROCEEDING, THE ARBITRATOR MAY MODIFY OR CORRECT AN AWARD EITHER:

1. ON A GROUND STATED IN SECTION 12-3024, SUBSECTION A, PARAGRAPH 1 OR 3.

2. BECAUSE THE ARBITRATOR HAS NOT MADE A FINAL AND DEFINITE AWARD ON A CLAIM SUBMITTED BY THE PARTIES TO THE ARBITRATION PROCEEDING.

3. TO CLARIFY THE AWARD.

B. A MOTION UNDER SUBSECTION A OF THIS SECTION MUST BE MADE AND NOTICE GIVEN TO ALL PARTIES WITHIN TWENTY DAYS AFTER THE MOVANT RECEIVES NOTICE OF THE AWARD.

C. A PARTY TO THE ARBITRATION PROCEEDING MUST GIVE NOTICE OF ANY OBJECTION TO THE MOTION WITHIN TEN DAYS AFTER RECEIPT OF THE NOTICE.

D. IF A MOTION TO THE COURT IS PENDING UNDER SECTION 12-3022, 12-3023 OR 12-3024, THE COURT MAY SUBMIT THE CLAIM TO THE ARBITRATOR TO CONSIDER WHETHER TO MODIFY OR CORRECT THE AWARD EITHER:

1. ON A GROUND STATED IN SECTION 12-3024, SUBSECTION A, PARAGRAPH 1 OR 3.

2. BECAUSE THE ARBITRATOR HAS NOT MADE A FINAL AND DEFINITE AWARD ON A CLAIM SUBMITTED BY THE PARTIES TO THE ARBITRATION PROCEEDING.

3. TO CLARIFY THE AWARD.

E. AN AWARD MODIFIED OR CORRECTED PURSUANT TO THIS SECTION IS SUBJECT TO SECTION 12-3019, SUBSECTION A AND SECTIONS 12-3022, 12-3023 AND 12-3024.

12-3021. Remedies; fees and expenses of arbitration proceeding

A. AN ARBITRATOR MAY AWARD PUNITIVE DAMAGES OR OTHER EXEMPLARY RELIEF IF SUCH AN AWARD IS AUTHORIZED BY LAW IN A CIVIL ACTION INVOLVING THE SAME CLAIM AND THE EVIDENCE PRODUCED AT THE HEARING JUSTIFIES THE AWARD UNDER THE LEGAL STANDARDS OTHERWISE APPLICABLE TO THE CLAIM.

B. AN ARBITRATOR MAY AWARD REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF ARBITRATION ONLY IF THAT AWARD IS AUTHORIZED BY LAW IN A CIVIL ACTION INVOLVING THE SAME CLAIM OR BY THE AGREEMENT OF THE PARTIES TO THE ARBITRATION PROCEEDING.

1 C. AS TO ALL REMEDIES OTHER THAN THOSE AUTHORIZED BY SUBSECTION A OF
2 THIS SECTION, AN ARBITRATOR MAY ORDER SUCH REMEDIES AS THE ARBITRATOR
3 CONSIDERS JUST AND APPROPRIATE UNDER THE CIRCUMSTANCES OF THE ARBITRATION
4 PROCEEDING. THE FACT THAT SUCH A REMEDY COULD NOT OR WOULD NOT BE GRANTED BY
5 THE COURT IS NOT A GROUND FOR REFUSING TO CONFIRM AN AWARD UNDER SECTION
6 12-3022 OR FOR VACATING AN AWARD UNDER SECTION 12-3023.

7 D. AN ARBITRATOR'S EXPENSES AND FEES, TOGETHER WITH OTHER EXPENSES,
8 MUST BE PAID AS PROVIDED IN THE AWARD.

9 E. IF AN ARBITRATOR AWARDS PUNITIVE DAMAGES OR OTHER EXEMPLARY RELIEF
10 UNDER SUBSECTION A OF THIS SECTION, THE ARBITRATOR SHALL SPECIFY IN THE AWARD
11 THE BASIS IN FACT JUSTIFYING AND THE BASIS IN LAW AUTHORIZING THE AWARD AND
12 STATE SEPARATELY THE AMOUNT OF THE PUNITIVE DAMAGES OR OTHER EXEMPLARY
13 RELIEF.

14 12-3022. Confirmation of award

15 AFTER A PARTY TO AN ARBITRATION PROCEEDING RECEIVES NOTICE OF AN AWARD,
16 THE PARTY MAY MAKE A MOTION TO THE COURT FOR AN ORDER CONFIRMING THE AWARD AT
17 WHICH TIME THE COURT SHALL ISSUE A CONFIRMING ORDER UNLESS THE AWARD IS
18 MODIFIED OR CORRECTED PURSUANT TO SECTION 12-3020 OR 12-3024 OR IS VACATED
19 PURSUANT TO SECTION 12-3023.

20 12-3023. Vacating award

21 A. ON MOTION TO THE COURT BY A PARTY TO AN ARBITRATION PROCEEDING, THE
22 COURT SHALL VACATE AN AWARD MADE IN THE ARBITRATION PROCEEDING IF ANY OF THE
23 FOLLOWING APPLIES:

24 1. THE AWARD WAS PROCURED BY CORRUPTION, FRAUD OR OTHER UNDUE MEANS.

25 2. THERE WAS EITHER:

26 (a) EVIDENT PARTIALITY BY AN ARBITRATOR APPOINTED AS A NEUTRAL
27 ARBITRATOR.

28 (b) CORRUPTION BY AN ARBITRATOR.

29 (c) MISCONDUCT BY AN ARBITRATOR PREJUDICING THE RIGHTS OF A PARTY TO
30 THE ARBITRATION PROCEEDING.

31 3. AN ARBITRATOR REFUSED TO POSTPONE THE HEARING ON SHOWING OF
32 SUFFICIENT CAUSE FOR POSTPONEMENT, REFUSED TO CONSIDER EVIDENCE MATERIAL TO
33 THE CONTROVERSY OR OTHERWISE CONDUCTED THE HEARING CONTRARY TO SECTION
34 12-3015, SO AS TO PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY TO THE
35 ARBITRATION PROCEEDING.

36 4. AN ARBITRATOR EXCEEDED THE ARBITRATOR'S POWERS.

37 5. THERE WAS NO AGREEMENT TO ARBITRATE, UNLESS THE PERSON PARTICIPATED
38 IN THE ARBITRATION PROCEEDING WITHOUT RAISING THE OBJECTION UNDER SECTION
39 12-3015, SUBSECTION C NOT LATER THAN THE BEGINNING OF THE ARBITRATION
40 HEARING.

41 6. THE ARBITRATION WAS CONDUCTED WITHOUT PROPER NOTICE OF THE
42 INITIATION OF AN ARBITRATION AS REQUIRED IN SECTION 12-3009 SO AS TO
43 PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING.

1 B. A MOTION UNDER THIS SECTION MUST BE FILED WITHIN NINETY DAYS AFTER
2 THE MOVANT RECEIVES NOTICE OF THE AWARD PURSUANT TO SECTION 12-3019 OR WITHIN
3 NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD
4 PURSUANT TO SECTION 12-3020, UNLESS THE MOVANT ALLEGES THAT THE AWARD WAS
5 PROCURED BY CORRUPTION, FRAUD OR OTHER UNDUE MEANS, IN WHICH CASE THE MOTION
6 MUST BE MADE WITHIN NINETY DAYS AFTER THE GROUND IS KNOWN OR BY THE EXERCISE
7 OF REASONABLE CARE WOULD HAVE BEEN KNOWN BY THE MOVANT.

8 C. IF THE COURT VACATES AN AWARD ON A GROUND OTHER THAN THAT SET FORTH
9 IN SUBSECTION A, PARAGRAPH 5 OF THIS SECTION, IT MAY ORDER A REHEARING. IF
10 THE AWARD IS VACATED ON A GROUND STATED IN SUBSECTION A, PARAGRAPH 1 OR 2 OF
11 THIS SECTION, THE REHEARING MUST BE BEFORE A NEW ARBITRATOR. IF THE AWARD IS
12 VACATED ON A GROUND STATED IN SUBSECTION A, PARAGRAPH 3, 4 OR 6 OF THIS
13 SECTION, THE REHEARING MAY BE BEFORE THE ARBITRATOR WHO MADE THE AWARD OR THE
14 ARBITRATOR'S SUCCESSOR. THE ARBITRATOR MUST RENDER THE DECISION IN THE
15 REHEARING WITHIN THE SAME TIME AS THAT PROVIDED IN SECTION 12-3019,
16 SUBSECTION B FOR AN AWARD.

17 D. IF THE COURT DENIES A MOTION TO VACATE AN AWARD, IT SHALL CONFIRM
18 THE AWARD UNLESS A MOTION TO MODIFY OR CORRECT THE AWARD IS PENDING.

19 12-3024. Modification or correction of award

20 A. ON MOTION MADE WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE
21 OF THE AWARD PURSUANT TO SECTION 12-3019 OR WITHIN NINETY DAYS AFTER THE
22 MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD PURSUANT TO SECTION
23 12-3020, THE COURT SHALL MODIFY OR CORRECT THE AWARD IF EITHER:

24 1. THERE WAS AN EVIDENT MATHEMATICAL MISCALCULATION OR AN EVIDENT
25 MISTAKE IN THE DESCRIPTION OF A PERSON OR THING OR PROPERTY REFERRED TO IN
26 THE AWARD.

27 2. THE ARBITRATOR MADE AN AWARD ON A CLAIM NOT SUBMITTED TO THE
28 ARBITRATOR AND THE AWARD MAY BE CORRECTED WITHOUT AFFECTING THE MERITS OF THE
29 DECISION ON THE CLAIMS SUBMITTED.

30 3. THE AWARD IS IMPERFECT IN A MATTER OF FORM NOT AFFECTING THE MERITS
31 OF THE DECISION ON THE CLAIMS SUBMITTED.

32 B. IF A MOTION MADE UNDER SUBSECTION A OF THIS SECTION IS GRANTED, THE
33 COURT SHALL MODIFY OR CORRECT AND CONFIRM THE AWARD AS MODIFIED OR CORRECTED.
34 OTHERWISE, UNLESS A MOTION TO VACATE IS PENDING, THE COURT SHALL CONFIRM THE
35 AWARD.

36 C. A MOTION TO MODIFY OR CORRECT AN AWARD PURSUANT TO THIS SECTION MAY
37 BE JOINED WITH A MOTION TO VACATE THE AWARD.

38 12-3025. Judgment on award; attorney fees and litigation
39 expenses

40 A. ON GRANTING AN ORDER VACATING AN AWARD WITHOUT DIRECTING A
41 REHEARING OR CONFIRMING, MODIFYING OR CORRECTING AN AWARD, THE COURT SHALL
42 ENTER A JUDGMENT IN CONFORMITY WITH THE ORDER. THE JUDGMENT MAY BE RECORDED,
43 DOCKETED AND ENFORCED AS ANY OTHER JUDGMENT IN A CIVIL ACTION.

44 B. A COURT MAY ALLOW REASONABLE COSTS OF THE MOTION AND SUBSEQUENT
45 JUDICIAL PROCEEDINGS.

1 C. ON APPLICATION OF A PREVAILING PARTY TO A CONTESTED JUDICIAL
2 PROCEEDING UNDER SECTION 12-3022, 12-3023 OR 12-3024, THE COURT MAY ADD
3 REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF LITIGATION INCURRED
4 IN A JUDICIAL PROCEEDING AFTER THE AWARD IS MADE TO A JUDGMENT VACATING AN
5 AWARD WITHOUT DIRECTING A REHEARING OR CONFIRMING, MODIFYING OR CORRECTING AN
6 AWARD.

7 12-3026. Jurisdiction

8 A. A COURT OF THIS STATE HAVING JURISDICTION OVER THE CONTROVERSY AND
9 THE PARTIES MAY ENFORCE AN AGREEMENT TO ARBITRATE.

10 B. AN AGREEMENT TO ARBITRATE PROVIDING FOR ARBITRATION IN THIS STATE
11 CONFERS EXCLUSIVE JURISDICTION ON THE COURT TO ENTER JUDGMENT ON AN AWARD
12 UNDER THIS CHAPTER.

13 12-3027. Venue

14 A MOTION PURSUANT TO SECTION 12-3005 MUST BE MADE IN THE COURT OF THE
15 COUNTY IN WHICH THE AGREEMENT TO ARBITRATE SPECIFIES THE ARBITRATION HEARING
16 IS TO BE HELD OR, IF THE HEARING HAS BEEN HELD, IN THE COURT OF THE COUNTY IN
17 WHICH IT WAS HELD. OTHERWISE, THE MOTION MAY BE MADE IN THE COURT OF ANY
18 COUNTY IN WHICH AN ADVERSE PARTY RESIDES OR HAS A PLACE OF BUSINESS OR, IF NO
19 ADVERSE PARTY HAS A RESIDENCE OR PLACE OF BUSINESS IN THIS STATE, IN THE
20 COURT OF ANY COUNTY IN THIS STATE. ALL SUBSEQUENT MOTIONS MUST BE MADE IN
21 THE COURT HEARING THE INITIAL MOTION UNLESS THE COURT OTHERWISE DIRECTS.

22 12-3028. Uniformity of application and construction

23 IN APPLYING AND CONSTRUING THIS CHAPTER, CONSIDERATION MUST BE GIVEN TO
24 THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER
25 AMONG STATES THAT ENACT IT.

26 12-3029. Relationship to electronic signatures in global and
27 national commerce act

28 THE PROVISIONS OF THIS CHAPTER GOVERNING THE LEGAL EFFECT, VALIDITY AND
29 ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC SIGNATURES AND OF
30 CONTRACTS PERFORMED WITH THE USE OF SUCH RECORDS OR SIGNATURES CONFORM TO THE
31 REQUIREMENTS OF SECTION 102 OF THE ELECTRONIC SIGNATURES IN GLOBAL AND
32 NATIONAL COMMERCE ACT (P.L. 106-229; 114 STAT. 463; 15 UNITED STATES CODE
33 SECTIONS 7001 AND 7002).

34 Sec. 5. Section 41-2615, Arizona Revised Statutes, is amended to read:

35 41-2615. Exclusive remedy

36 Notwithstanding any law to the contrary, including ~~the provisions of~~
37 title 12, chapter 7, article 2 and title 12, chapter ~~9, article 1~~ 21, this
38 article and the rules ~~promulgated~~ ADOPTED under this article shall provide
39 the exclusive procedure for asserting a claim against this state or any
40 agency of this state arising in relation to any procurement conducted under
41 this chapter.

1 Sec. 6. Savings clause

2 Title 12, chapter 21, Arizona Revised Statutes, as added by this act,
3 does not affect an action or proceeding commenced or a right accrued before
4 January 1, 2009. Subject to section 12-3003, Arizona Revised Statutes, as
5 added by this act, an arbitration agreement made before January 1, 2009 is
6 governed by title 12, chapter 9, article 1, Arizona Revised Statutes.

7 Sec. 7. Effective date

8 Sections 10-1806, 12-2101.01 and 41-2615, Arizona Revised Statutes, as
9 amended by this act, and title 12, chapter 21, Arizona Revised Statutes, as
10 added by this act, are effective from and after December 31, 2008.